

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

ANDREW MARTINEZ,

Plaintiff,

v.

ROBERTS SINTO CORPORATION,

Defendant.

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No. 21-03009-CV-S-DPR

ORDER

Before the Court is Defendant's Motion to Amend Scheduling Order and For Leave to Take Additional Witness Depositions. (Doc. 46.) Defendant states that Plaintiff will not stipulate to any depositions beyond 10, and requests leave to take depositions in excess of the 10 allowed under Fed. R. Civ. P. 30(a)(2).

Pursuant to Local Rule 37.1(a)(1), before filing a written discovery motion, counsel must confer or attempt to confer "by telephone or in person with opposing counsel" about the dispute. An email does not satisfy this rule. Local Rule 37.1(a)(2) also provides that if the matter remains unresolved after conferring, the parties must submit to a telephone conference with the judge. The local rule specifically prohibits the filing of a written discovery motion until after a telephone conference is held. Here, the motion shows no attempt to confer in person with opposing counsel about the matter and was filed prior to any telephone conference with the Court.

Accordingly, the Motion to Amend Scheduling Order and For Leave to Take Additional Witness Depositions is **DENIED** without prejudice for failure to comply with Local Rule 37.1.

IT IS SO ORDERED.

/s/ David P. Rush

DAVID P. RUSH

UNITED STATES MAGISTRATE JUDGE

DATE: November 19, 2021